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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,946	08/13/2001	Joachim Ebermann	A34359 071308.0169	8757

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EXAMINER

CHANG, SUNRAY

ART UNIT PAPER NUMBER

2121

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/928,946

Applicant(s)

EBERMANN ET AL.

Examiner

Sunray Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. This office action is in responsive to the paper filed on August 15<sup>th</sup>, 2005.

Claims 1, 3 – 7 are presented for examination.

Claims 1, 3 – 7 are rejected.

Claim 2 has been cancelled.

**Claim Objection**

2. Claim 3 is objected because claim 3 depends on a cancelled claim 2, claim 3 has been interpreted to depend on independent claim 1 hereinafter.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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3. **Claims 1, 3 – 7 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Sudhir Pednekar et al. (U.S. Patent No. 6,385,023 and referred to as **Pednekar** hereinafter), in view of Takayuki Matsumoto et al. (U.S. Patent No. 5,559,474 and referred to as **Matsumoto** hereinafter).

(**Pednekar** as set forth above generally discloses the basic inventions.)

**Regarding independent claim 1,**

**Pednekar** teaches,

- A method for monitoring a technical system having a process variable and an associated threshold parameter value therefore which are sampled cyclically; [Col. 3, Lines 4 – 9]
- emission of a process-variable-dependent identification signal for a control program; [Abstract, and Col. 4, Lines 4 – 11]
- cyclic sampling of at least one of said process variables; [Col. 3, Lines 4 – 9]
- a timing mechanism is started using a time difference between a last sampled process variable and the determined threshold value crossing time [as long as ... detects a drop in the voltage below a threshold value, Col. 4, Lines 22 – 36], and wherein the timing mechanism provides for an identification signal independent from said cyclic sampling [one or more reclosing modules connected to it are activated, Col. 4, Lines 22 – 36] when said time difference has passed [below]. [Col. 4, Lines 22 – 36; see also Col. 4, Lines 37 – 63]

**Pednekar** does not teach selecting from the group consisting of a closed-loop, open-loop and closed-loop and open-loop control program;

**Matsumoto** teaches,

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- the group consisting of a closed-loop, open-loop and closed-loop and open-loop control program [Abstract], for the purpose of obtaining an accurate output.

It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Pednekar** to include "selecting from the group consisting of a closed-loop, open-loop and closed-loop and open-loop control program", for the purpose of improving the reception characteristic and obtaining an accurate output.

**Regarding dependent claim 3,**

**Pednekar** teaches,

- processing a single-stage or multi-stage command sequence on the basis of one occurrence of the identification signal of the reached time difference; [below a threshold value ... one or more reclosing modules connected to it are activated, Col. 4, Lines 25 – 30]

**Regarding dependent claim 4,**

**Pednekar** teaches,

- determining the threshold value crossing time from samples of a process variable with the aid of a mathematical approximation function. [the reclosing time are optimized on the basis of measurements, Col. 58 – 61]

**Regarding dependent claim 5,**

**Pednekar** teaches,

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- detecting characteristic values of a technical process; using the characteristic values to form a model simulation of a control path in the control program; supplying at least one manipulated variable for the technical process to the model simulation; and determining a threshold value crossing time by the model simulation. [Col. 4, Lines 37 – 63; see also Col. 3, Line 52 – Col. 4, Line 36]

**Regarding dependent claims 6 and 7,****Pednekar** teaches,

- determining the threshold value crossing time in each remaining sampling cycle using updated instantaneous values of the process variable and initializing the timing mechanism with a remaining time difference in each sampling cycle which precedes the sampling cycle in which the threshold value crossing is expected, and restarting the timing mechanism with an updated time difference in the following sampling cycles, provided that the threshold value crossing has not occurred. [Col. 4, Lines 37 – 63; see also Col. 3, Line 52 – Col. 4, Line 36]

**Response to Amendment**

4. Applicants' argument regarding "Namekata does neither disclose or suggest to process any type of data related to technical process values such as movement, pressure, or temperature" (Page 7, lines 7 – 9) is agreed with. Yet, newly amended claim 1 makes the invention even more obvious similar with **Pednekar** reference. New set of rejections in current office action has been

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cited based on **Pednekar** combined with original cited **Matsumoto** reference to replace forth rejections.


**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang whose telephone number is (571) 272-3682. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-3506.

Sunray Chang  
Patent Examiner  
Group Art Unit 2121  
Technology Center 2100  
U.S. Patent and Trademark Office

  
Anthony Knight  
Group Patent Examiner  
Group 3600

October 21, 2005